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Acton Community Housing Corporation
Nancy Tavernier, Chairman

September 5, 2006

Jonathan Wagner, Chairman
Acton Board of Appeals
Acton Town Hall
472 Main St.
Acton, MA

Dear Mr. Wagner:

On behalf of the Acton Community Housing Corporation and the Acton Board of Selectmen, I am filing the enclosed application for a Comprehensive Permit. This application represents three years of work in collaboration with the DHCD, the Town, Residents, Town Counsel, Town Staff and Board members.

This Comprehensive Permit is unlike any that has come before the current members of the Board of Appeals due to the public ownership of the property. While the application is being filed jointly by the Town and the ACHC, neither will be the final developer and it will not be a public construction project. Assuming approval of a Comprehensive Permit for this development, it will be put out to bid to find a private or non-profit developer to construct the project according to the requirements of the Permit.

We look forward to presenting this project and working with the Board in our first hands-on development.

Sincerely,

Nancy E. Tavernier, Chair
ACHC

WILLOW-CENTRAL

DEVELOPMENT SUMMARY

Introduction

The Acton Community Housing Corporation (ACHC) is seeking a Comprehensive Permit from the Acton Zoning Board of Appeals under the provisions of M.G.L. Chapter 40B, Sections 20-23 ("Chapter 40B"). The ACHC is the Town Board responsible for developing affordable housing strategies and overseeing affordable housing programs in the Town of Acton. This quasi-public body is a Selectmen-appointed board, created by a Legislative Home Rule petition in 1996. (See Chapter 143 of the Acts of 1996, § 1.) Prior to this, ACHC was a private non-profit housing partnership group formed by the Selectmen in 1986.

The Selectmen's charge to the ACHC is to implement the Town's affordable housing policies. As part of this charge, the Selectmen encouraged ACHC to initiate action intended to create affordable residential housing projects and to create a specific project consistent with Town policy. The Willow-Central project is the ACHC's first hands-on housing development.

The subject property consists of two adjoining parcels of land in a residential neighborhood in West Acton. The two parcels combined are 15,335 square feet. The parcels have frontage on two streets, 68.0 feet of frontage (more or less) at 214 Central St. and 104.33 feet of frontage (more or less) at 28 Willow Street. The Willow Street parcel contains an approximate 2,000 square foot office and garage building, which will be demolished. The current zoning is Village Residential (VR), which would allow by special permit from the Planning Board up to 4 attached multifamily units on 15,000 square feet or more of land.

The ACHC is proposing to build three (3) condominium units, in two separate dwellings on the parcel. The unit deeds for the 3 units will each contain a restriction providing that such unit can only be sold to and purchased by people who meet specified income eligibility criteria for affordable housing. Each unit will remain restricted in perpetuity. Two units will be sold to low or moderate income households earning no more than 80% of the Area Median Income and will be counted toward the Town's 10% housing goal. For the third unit, (1) the duplex three-bedroom unit may be sold to the Acton Housing Authority pursuant to a separate RFP process, to use for its low-income family rental program; or (2) ACHC may buy down that unit's sale price to a price affordable for a 4 person household at 80% AMI; (3) otherwise that unit would be sold to a 4 person household earning no more than 130% AMI. In options one and two, the units would be counted toward the Town's 10%. In option three, the unit would not count toward the Town's 10% housing goal but would still provide an important housing need.

The Comprehensive Permit process known as Chapter 40B was created in 1969 in order to foster housing opportunities in Massachusetts communities that are affordable to a wide range of their community's residents. The Board of Appeals is granted decision-making authority for all local permits that are required for a Chapter 40B development. Many of the local boards and departments have reviewed the preliminary plans and are expected to make recommendations and provide advice to the Board of Appeals.

In reviewing a request for a Chapter 40B Comprehensive Permit, the Board of Appeals must determine whether the proposed development is "consistent with local needs." The Board of Appeals must weigh and balance zoning, health, safety, environmental, site design, open space, and planning impacts of the proposed development. In designing the Willow-Central project, ACHC's goal was to design new homes that will provide quality housing that is affordable for income eligible individuals and families and a source of pride to its residents, the Town, and the developer, while at the same time appropriately protecting zoning, environmental and public health, safety and planning issues.

Development History

These two parcels of land were taken by the Town for nonpayment taxes in Land Court Case Nos. 112320 T.L. and 112319 T.L. (Judgments dated May 4, 1998). The site was most recently used as a septic system installation and repair company, until approximately 1995. The Town of Acton has spent \$65,096.00 for the assessment, containment and removal costs to clean up a petroleum contamination problem that was discovered after the Town acquired the land. The site was cleaned up and approved by the Town's Licensed Site Professional under DEP's regulations for residential re-use. Additional expenses were incurred by the Town for outstanding taxes, interest and penalties, attorney's fees, and costs related to the Town's investigation of environmental contamination of the Property, and the lawsuit to collect those costs. The ACHC paid the Town \$202,548.32 for the land which reimburses the Town for all of the expenses incurred as of April 30, 2006.

This proposal was developed over a period of several years, with input from the neighbors, appointed and elected officials, state housing officials, and other interested parties. The ACHC received approval by 2004, 2005, and 2006 Town Meeting voters for the use of CPA funds for project planning, design, and land acquisition. Town meeting voters also authorized the Board of Selectmen to convey the parcels to the ACHC for the development of affordable housing. ACHC also met with all the major town boards, presenting the proposed development concept and design and gaining their support.

While the Town Engineering Department was preparing an ANR plan and survey of the property, in anticipation of conveying it to the ACHC, it was discovered that there was a discrepancy in total land area due to a miscalculation of the property line on Central Street dating back over 60 years. After researching the deeds and records at the Registry, Town Counsel was able to confirm the loss of 750 square feet of land, including 10 feet of frontage that had been omitted in a 1940 deed. Since the 3 unit design would have

been adversely affected by this change in the frontage, an easement was negotiated with the abutting property owner at 206-208 Central Street. This easement will accommodate the driveway for one of the duplex units, which would have otherwise been eliminated.

Development Design

The ACHC proposes to build a duplex farmhouse style building on the Central Street side of the parcel and a single family bungalow style building on the Willow Street side. The duplex would contain a 3-BR unit and a 2-BR unit, the bungalow would be a 3-BR unit. The wastewater disposal system has been designed to accommodate a maximum of 9 bedrooms and has been approved by the Board of Health.

Under Village Residential Zoning, ACHC would be allowed to build up to 4 attached units as long as one was owner-occupied. The ACHC began the preliminary design process by gathering together the neighbors to seek their input on design, density and scale. They have been very supportive through out the preliminary design and approval phases. After meeting with the neighborhood, it was agreed that a large scale structure would be completely out of character with the village area and the unique historic streetscape on both Willow and Central Streets. Once it was determined that 2 separate dwellings would be more appropriate and acceptable, a Comprehensive Permit was required to accomplish the proposed design.

ACHC was awarded a Priority Development Fund grant of \$25,000 from DHCD and MassHousing to fund preliminary engineering and design services in preparation for gaining approval for the development from relevant state and local bodies.

Development Process

This Comprehensive Permit is unlike any that has come before the ZBA because of the public ownership of the property. While the application is being filed jointly by the Town and the ACHC, neither will be the final developer and it will not be a public construction project. Upon approval of a Comprehensive Permit for this development, it will be put out to bid to find a private or non-profit developer to construct the project according to the requirements of the Permit.

On July 18, 2005, the Acton Board of Selectmen approved special procedures to be followed for the development of the Willow-Central property and the conveyance of the property to ACHC. As part of that process, an RFP has been prepared by Town Counsel and approved by the Board of Selectmen and the Acton Community Housing Corporation. The purpose of this RFP is to select a developer/owner who will acquire, develop, restrict, and market the Property in accordance with the RFP and the Comprehensive Permit. It specifies the process for disposition and restricts the subsequent use of the Property for residential and affordable housing purposes. The Town will convey the Title to the property to the ACHC who will then re-convey it to the selected developer.

Condominium Ownership and Lottery

The ownership of the dwellings and parcel will be in the form of condominiums. Each unit will have an Exclusive Use Area under individual control. There will be some shared common area responsibilities. The condominium units will be sold through a lottery with the exception of the 3-BR duplex unit, which the Acton Housing Authority may purchase through its own RFP process for its low-income family rental program. Local Preference for affordable units will be provided to the maximum extent allowed by legal requirements. The federal and state governments have created affordability tables that set forth the different income levels that individuals and families can earn and remain eligible for affordable housing. The housing lottery will be supervised by the ACHC.

The uniqueness of this application

The Board of Appeals is presented with a very different 40B proposal for the Willow-Central development. While the typical 40B requirement is that 25% of the units are affordable, we propose 100%. Generally the Pro Forma, land value, project revenues, development costs, and projected profit factors receive careful scrutiny by the Board during the more routine 40B process, those issues are not necessarily relevant for this application. Until the Permit is granted and the developer selected through the RFP, many of these details will not be known. The RFP and the Land Disposition Agreement between ACHC and the Developer will focus on the project finances. ACHC is prepared to provide housing funds from private sources and the CPA fund to make Willow-Central financially feasible and provide a limited profit to the developer. The level of subsidies for the development will not be known until developers respond to the RFP with their funding proposals. The Willow/Central property will be conveyed to the selected developer through a Land Disposition Agreement with the ACHC, approved by the Board of Selectmen.

Conclusion

ACHC is extremely grateful for the support and the help we received from the neighborhood and other West Acton residents, the Health, Engineering, Planning, and Building Departments, the Board of Selectmen, the Community Preservation Committee, the Town Manager, the Finance Department, Town Counsel, the Acton Housing Authority, DHCD, MHP, and a private donor who will help fund the development costs in support of affordable housing.

The Acton Community Housing Corporation appreciates the opportunity to work with the Board of Appeals on this development. We respectfully submit that the proposed Chapter 40B development is consistent with local needs and will satisfy an unmet housing need in the Town of Acton. We request the Board of Appeals votes to issue a Comprehensive Permit to allow construction of this development.